

REMARKS/ARGUMENTS

Favorable reconsideration of the subject application, entry of the claim amendments above, and allowance of the claims is respectfully requested.

Claims 1-11 and 16-30 are pending in the subject application. Claims 24-29 have been withdrawn from consideration. Claims 1-11, 16-21 and 30 were amended to delete reference to hybridization conditions and to define the claimed nucleic acid as having at least about 95% sequence identity over its entire length with SEQ ID NO:1. Support for this amendment is found at page 22 where it is disclosed that the claimed sequence has “>95% identity with the probe” [the probe being SEQ ID NO:1]. These claims, as well as claims 21-25, have also been amended to more particularly define the claimed invention as being directed to a nucleic acid having identity with SEQ ID NO: 1 and its complement. This amendment is supported by the disclosure at page 22, last paragraph. Accordingly, these amendments to the claims do not add new matter.

Counsel would like to thank Examiner Schafer and her primary, Examiner Lorraine Spector, for taking the time for a telephonic interview and for reviewing the issue of indefiniteness with Counsel. The Examiners’ comments are well taken and the amendments above are made in the spirit of complete compliance with the Examiners’ suggestions. Applicants respectfully request that the amendments be entered at this time, since the amendments do not raise issues requiring further searching and place the claims in condition for allowance.

The only remaining issue lodged against the pending claims is a rejection of claims 1-11, 16-23 and 30 under 35 U.S.C. § 112, second paragraph for indefiniteness. It is respectfully submitted that the amendments above fully address this ground of rejection, and place the claims

in condition for allowance. Accordingly, the rejection of claims 1-11, 16-23 and 30 under 35 U.S.C. § 112, second paragraph is respectfully traversed.

It is respectfully submitted that the subject application, as amended above, is in condition for allowance, an early notification thereof being earnestly solicited. It is also respectfully requested that upon allowance of the pending claims, claims 24 and 25, which are directed to methods of using the claimed nucleic acids/proteins, be rejoined in the subject application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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